

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

ALONZO AUSTIN,
Plaintiff,

vs.

CASE NO.: 3:07-cv-042-MEF

GLOBAL CONNECTION, INC., et al.,
Defendant.

* * * * *

HEARING ON SETTLEMENT CONFERENCE

* * * * *

BEFORE THE HONORABLE TERRY F. MOORER, UNITED STATES
MAGISTRATE JUDGE, at Montgomery, Alabama, on December 14,
2007, commencing at 8:54 a.m.

APPEARANCES

FOR THE PLAINTIFF: Pro se (via telephone)
Mr. Alonzo Austin
1321 Oliver Carlis Road
Tuskegee, AL 36083-3739

FOR THE DEFENDANT: Mr. Joshua R. McKoon (via telephone)
MCKOON, THOMAS & MCKOON
925 Broad Street
Post Office Box 3220
Phenix City, AL 36868-3220

Proceedings recorded by digital sound recording;
transcript produced by stenography and computer.

1 (The following proceedings were heard before the Honorable
2 Terry F. Moorner, United States Magistrate Judge, at Montgomery,
3 Alabama, on December 14, 2007, commencing at 8:54 a.m.:)

4 THE COURT: ... concerning the notice concerning settlement
5 conference and mediation. Gentlemen, I called this hearing
6 because, as you know, the order required you to have a
7 face-to-face settlement conference, and I found that the -- from
8 reading each of your responses that both of you basically
9 indicated that you had not gotten together to do that task. And
10 I wanted to hear you, first from the plaintiffs, as to why you
11 have not done the face-to-face settlement conference as
12 required. Mr. Austin?

13 MR. AUSTIN: May I respond, Judge?

14 THE COURT: Yes. I'm calling on you, Mr. Austin.

15 MR. AUSTIN: Okay. Frankly, Your Honor, I apologize.
16 And frankly, I just failed to do so.

17 THE COURT: Well, that's a very important part of the
18 proceedings, gentlemen. Inasmuch as to the extent that cases
19 may somehow be resolved, I'm going to ask that y'all do that.
20 Today --

21 MR. MCKOON: Yes, Your Honor.

22 THE COURT: -- is the 14th --

23 MR. MCKOON: Would you like us to do that
24 telephonically, or I can -- I can go to Mr. Austin if the Court
25 wants me to.

1 THE COURT: I would prefer that it be done face to face
2 so that we can get this done if necessary.

3 MR. MCKOON: Yes, sir.

4 MR. AUSTIN: Your Honor, if I may. Excuse me. Your
5 voice is -- I'm finding it difficult to pick you up audibly. Is
6 there any way you can elevate the volume?

7 THE COURT: Yes, Mr. Austin. What I said was that
8 counsel for Global Connection -- that Global Connection could
9 meet with you in person, and that I prefer that you meet in
10 person.

11 MR. AUSTIN: Yes, sir.

12 THE COURT: So I'm going to -- I'm looking at my
13 calendar and suggest that you meet next week. I will leave it
14 to you if -- to right now confer, and let me know what day
15 you're going to meet.

16 MR. AUSTIN: Well, I can do it today if it's okay
17 with -- if it's okay with defendant's counsel McKoon.

18 MR. MCKOON: Mr. Austin, the only thing I have on my
19 calendar, I do have an appointment coming into my office in
20 about an hour. I anticipate I'm going to spend about an hour
21 with that client.

22 MR. AUSTIN: Okay.

23 MR. MCKOON: So I could probably -- I could meet you at
24 one o'clock if you'll tell me a convenient place for us to
25 meet. I mean, obviously, my office is available, but that's a

1 pretty good drive from Tuskegee, so I'll be happy to come to
2 you.

3 MR. AUSTIN: Well, if we may, if it's okay with the
4 court, and, of course, counsel, I've always suggested the public
5 library in Opelika. I think that's a midway point. And I still
6 would do that now if that's -- if that would comport with your
7 schedule.

8 MR. MCKOON: That's fine with me.

9 THE COURT: Okay. And Mr. McKoon, is your office on
10 eastern time or central time?

11 MR. MCKOON: I'm on eastern time, Your Honor, but when
12 I said one o'clock, I was referring to central time.

13 MR. AUSTIN: Okay.

14 THE COURT: And that's what I wanted to make sure of,
15 was that everybody had the same one o'clock in mind.

16 MR. AUSTIN: Yes, sir.

17 THE COURT: Okay. Well, then -- and then I'll make the
18 report of your meeting and your settlement conference due on
19 this coming Tuesday.

20 MR. MCKOON: Okay.

21 MR. AUSTIN: Very good.

22 THE COURT: Now, the other thing that is wrapped up in
23 this is that I've received the defendant's response to the
24 failure of Mr. Austin to comply with the discovery order.
25 Mr. Austin, from what I see in the motion, the defense responded

1 to your request for discovery, and they have attempted on
2 occasions to contact you to get the discovery to which they are
3 entitled.

4 MR. AUSTIN: Your Honor, I -- I believe that is
5 incorrect. I've not received a response from the defendant at
6 all. As a matter of fact, I -- I sent my interrogatories on the
7 8th of August '07, and I sent it out certified mail, and they
8 have not responded there. And I do have my certificate of
9 receipt, and it was signed by Brittany Kelly. And also, in
10 addition, I requested production of documents via Rule 34, and
11 I've not received those. But I sent that -- sent those -- sent
12 both those -- sent both interrogatory requests as well as the
13 request for documents on the 8th of August of this year. And of
14 course, it was signed by Brittany, but I've yet to get a
15 response from the defendant. Now, I have nothing -- I have
16 received nothing from the defendant.

17 MR. MCKOON: Your Honor --

18 THE COURT: Hang on, Mr. McKoon.

19 Now, I'm looking at the motion that was filed. Did you
20 get a copy of the motion, Mr. Austin?

21 MR. AUSTIN: Which motion is that, Your Honor?

22 THE COURT: It's document 46. It's entitled
23 Defendant's Response to Court's Order to Show Cause Why the
24 Court Should Not Sanction For Failure to Comply With the
25 Discovery Order.

1 MR. AUSTIN: No -- no, sir, I do not have that.

2 THE COURT: Okay. Well, in it Mr. McKoon represents
3 that he received discovery requests from you on or about August
4 the 10th of 2007.

5 MR. AUSTIN: Okay.

6 THE COURT: And he responds -- or alleges that he
7 completed and sent responses to your discovery requests to you
8 on September the 10th of 2007.

9 MR. AUSTIN: Your Honor, I do not -- I do not have
10 that.

11 THE COURT: And I'm not --

12 MR. AUSTIN: I never received it.

13 THE COURT: I'm not saying that you do or you don't,
14 and I'm merely telling you what their response is, that they
15 have sent that.

16 MR. AUSTIN: Yes, sir. You know, this is my first time
17 hearing about this at all, and I --

18 THE COURT: Well, and I don't know the reason for
19 that. I'm going to take both of you at your word, that you have
20 sent it, and I'm going to take you at your word that you haven't
21 received it. But perhaps that is something that y'all can
22 discuss during your meeting. Because he also indicates that he
23 prepared and sent discovery requests to you on September the
24 17th of 2007, and he did not receive a response to that as of
25 October the 17th of 2007.

1 MR. AUSTIN: Again, Your Honor, I did not receive that.

2 THE COURT: Well --

3 MR. AUSTIN: I have not received anything from the
4 defendant's counsel with respect to discovery.

5 THE COURT: Well, since y'all are going to have this
6 meeting this afternoon --

7 MR. AUSTIN: Yes, sir.

8 THE COURT: And I'm just laying out for you what is
9 said in their response. Because it seems to me that since y'all
10 are going to be together at one o'clock today, this is a perfect
11 opportunity for the two of you to get together on these things.

12 MR. MCKOON: Your Honor, again, I mean, we've -- we did
13 what we indicated that we did in our motion.

14 But what I will do, Mr. Austin, I'm going to bring you
15 copies --

16 MR. AUSTIN: Please. Because I've not received it.

17 MR. MCKOON: -- of both our responses to your
18 discovery, our discovery request, and a separate letter that was
19 sent. I'm going to just -- or I'll have copies of all of that,
20 and I'm going to put it in your hands when we meet at one
21 o'clock so there won't be any further confusion on that.

22 MR. AUSTIN: Well, if I may, counsel, when did you mail
23 this out?

24 MR. MCKOON: We mailed our discovery requests on
25 September the 17th, and we mailed a follow-up letter on October

1 the 17th.

2 MR. AUSTIN: Okay. Was that via certified mail?

3 MR. MCKOON: I'm not sure how my secretary prepared
4 it. I don't -- I'm looking at the file now. I don't see a
5 green card.

6 MR. AUSTIN: Okay.

7 MR. MCKOON: I mean, I know it was sent and she took
8 care of it, so --

9 MR. AUSTIN: I did not receive it.

10 MR. MCKOON: And I have no reason to doubt her. But
11 like I said, I'll be happy to bring you copies of all that
12 information and perhaps -- you know, I'm certainly in a position
13 to negotiate and attempt to see if we can resolve this thing
14 today so we won't be spending any more of the Court's time on
15 this matter. So I'm going to bring the discovery responses, our
16 discovery requests, and a separate letter to you at one o'clock
17 today, and I will also come prepared to have our good faith
18 mediation conference at that time.

19 MR. AUSTIN: Okay. Fair enough.

20 THE COURT: Okay. So why don't we do that? And y'all
21 are supposed to report back -- did I say Tuesday?

22 MR. MCKOON: Yes, sir, Your Honor.

23 THE COURT: I'd like to have another conference call
24 Tuesday.

25 MR. MCKOON: That's certainly fine by me. I can be

1 available any time the court requests.

2 MR. AUSTIN: Same here, Judge.

3 THE COURT: Nine o'clock on Tuesday.

4 MR. MCKOON: Okay.

5 MR. AUSTIN: Yes, sir.

6 MR. MCKOON: Thank you, Your Honor.

7 THE COURT: All right.

8 MR. AUSTIN: Thank you.

9 THE COURT: Court's adjourned.

10 (Proceedings concluded at 9:04 a.m.)

11 * * * * *

12 COURT REPORTER'S CERTIFICATE

13 I certify that the foregoing is a correct transcript
14 to the best of my ability from the official sound recording of
15 the proceedings in the above-entitled matter.

16 This 19th day of May, 2008.

17

18

19 /s/ Patricia G. Starkie
20 Registered Diplomat Reporter
21 Certified Realtime Reporter
22 Official Court Reporter

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